

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

No. 7:09-CR-112-D

No. 7:11-CV-125-D

LUIS HERNANDEZ-ESPINOZA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**ORDER**

Defendant has filed numerous motions [D.E. 60, 67, 70, 74, 81]. The United States has responded in opposition [D.E. 68, 75]. The court has carefully considered each motion. The following motions [D.E. 60, 67, 74, 81] lack merit and are DENIED. As for the petition under 28 U.S.C. § 2255 [D.E. 70], it fails to state a claim due to the appellate waiver in defendant's plea agreement. Alternatively, the petition lacks merit under Strickland v. Washington, 466 U.S. 668, 687-91 (1984), and its progeny. Thus, the petition [D.E. 70] is DISMISSED, and the court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c).

SO ORDERED. This 3 day of January 2012.

  
JAMES C. DEVER III  
Chief United States District Judge